

REMARKS

The applicant notes with appreciation the acknowledgement of the claim for priority under section 119 and the notice that all of the certified copies of the priority documents have been received.

The applicant acknowledges and appreciates receiving an initialed copy of the form PTO-1449 that was filed on February 11, 2004.

Claims 1 – 2 and 4 – 14 are pending. Claim 3 has been canceled. Claims 13 – 14 have been added. The applicant respectfully requests reconsideration and allowance of this application in view of the above amendments and the following remarks.

Claim 3 was objected to. Because claim 3 was canceled, it is respectfully submitted that the objection is moot.

Claims 1 – 4, 6, and 8 – 10 were rejected under 35 USC 102(3) as being anticipated by U.S. Patent Publication No. 2004/0010358, Oesterling et al. (“Oesterling”). Insofar as the rejection may be applied to the claims as amended, the rejection is respectfully traversed for reasons including the following, which are provided by way of example.

Support for the amendment to claim 1 is located in the specification, for example page 21 lines 22 – 26, claims 2 and 3 as filed, and Fig. 8.

As described in the application, one or more aspects are directed to solving the problem of providing “an individual information management system that centralizes, in a data center, individual information pertinent to devices mounted in individual vehicles.” (Specification page 2, lines 2 - 5.)

Claim 1 recites in combination, for example “each time the individual information in the vehicle is determined to be damaged, the vehicle requesting means outputs the request, which is accompanied by the identification information, for the data center to send an individual information stored in the center storing means and that corresponds to the identification information.” Claim 1 further recites that “then the center selecting means selects the individual information stored by the center storing means responsive to the identification information accompanying the request”. Further, “then the center sending means sends, to the vehicle receiving means, the individual information selected by the center selecting means, and then the vehicle varying means automatically restores the damaged individual information using the individual information that is received by the vehicle receiving means”. Thereby, the data relating to the setting of various devices in a vehicle, e.g., a rent-a-car, can be promptly restored.

Without conceding that Oesterling discloses any feature of the present invention, Oesterling is directed to a method and system of personalizing settings for a vehicle. According to Oesterling, preferences are received at the call center from the web portal, and sent to the telematics unit. Preferences can be downloaded after a particular user enters the mobile vehicle, based on a verbal or button-based command, upon request of the subscriber, or after extended loss of battery power. (E.g., Fig. 3 and accompanying description.)

The office action asserts that Oesterling discloses the invention as claimed. To the contrary, Oesterling fails to teach or suggest the invention, as presently claimed, when the claims are considered as a whole. Oesterling fails to teach or suggest, for example, that each time the individual information in the vehicle is determined to be damaged, the vehicle requesting means request the data center to send the individual information as recited, and then the vehicle varying means automatically restores the damaged individual information using the individual information that is received by the vehicle receiving means. (E.g., claim 1.) To the contrary,

Oesterling does not request individual information each time the individual information is determined to be damaged.

Oesterling fails to teach or suggest, for example, these elements recited in independent claim 1. It is respectfully submitted therefore that claim 1 is patentable over Oesterling.

For at least these reasons, the combination of features recited in independent claim 1, when interpreted as a whole, is submitted to patentably distinguish over the prior art. In addition, Oesterling clearly fails to show other recited elements as well.

With respect to the rejected dependent claims, applicant respectfully submits that these claims are allowable not only by virtue of their dependency from independent claim 1, but also because of additional features they recite in combination.

Claim 5 was rejected under 35 USC 103(a) as being unpatentable over Oesterlink in view of U.S. Patent No. 6,759,943, Lucy et al. ("Lucy"). Claims 11 and 12 were rejected under 35 USC 103(a) as being unpatentable over Oesterling in view of U.S. Patent Publication No. 2003/0078709, Yester ("Yester"). Claim 7 is rejected under 35 USC 103(a) as being unpatentable over Oesterling, with official notice. The applicants respectfully request that these rejections be withdrawn for the following reasons.

Claims 5, 7, 11 and 12 are dependent claims, and applicant respectfully submits that these claims are allowable not only by virtue of their dependency from independent claim 1, but also because of additional features they recite in combination.

Moreover, with respect to claim 7, the examiner appears to be relying on personal knowledge to support the finding of what is known in the art. The taking of Official Notice is respectfully traversed, and the examiner is requested to provide an affidavit or declaration setting forth specific factual statements and explanation to support the finding. MPEP 2144.03 See 37

CFR 1.104(d)(2). An examiner cannot simply reach conclusions based on their own understanding, or experience, or assessment of what would be basic knowledge or common sense. Rather, there must be some concrete evidence in the record in support of these findings. *In re Zurko*, 258 F.3d 1379, 1385, 59 USPQ2d 1693, 1697 (Fed. Cir. 2001). Moreover, the examiner's expertise "may provide sufficient support for conclusions [only] as to peripheral issues." *Id.* at 1385-86, 59 USPQ2d at 1697. It appears that the examiner is utilizing the noticed fact to provide a motivation to modify Oesterling, hence, the noticed fact is clearly not a peripheral issue. Accordingly, it is inappropriate for the examiner to rely on official notice, and the examiner is requested to provide the above-mentioned affidavit or declaration.

New claims 13 – 16 have been added to further define the invention, and are believed to be patentable for reasons including these set out above. Support for dependent claims 15 – 16 can be located in the specification, for example page 14 lines 1 – 11.

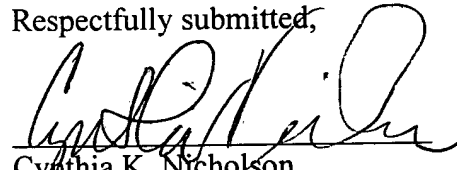
Applicant respectfully submits that, as described above, the cited prior art does not show or suggest the combination of features recited in the claims. Applicant does not concede that the cited prior art shown any of the elements recited in the claims. However, applicant has provided specific examples of elements in the claims that are clearly not present in the cited prior art.

Applicant strongly emphasizes that one reviewing the prosecution history should not interpret any of the examples applicant has described herein in connection with distinguishing over the prior art as limiting to those specific features in isolation. Rather, for the sake of simplicity, applicant has provided examples of why the claims described above are distinguishable over the cited prior art.

In view of the foregoing, the applicant respectfully submits that this application is in condition for allowance. A timely notice to that effect is respectfully requested. If questions relating to patentability remain, the examiner is invited to contact the undersigned by telephone.

Please charge any unforeseen fees that may be due to Deposit Account No. 50-1147.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Cynthia K. Nicholson', written over a horizontal line.

Cynthia K. Nicholson

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